

Suggested Items to Include in a Timber Sale Contract

Tennessee Department of Agriculture, Division of Forestry

1. Name and address of buyer.
2. Date contract is executed.
3. Description of the timber: species, size, marking.
4. Location and legal description.
5. Statement that states seller's ownership and right to convey; should include title abstract and title insurance.
6. Provision for buyer's entrance into and exit from the property.
7. Statement that logger must stay within the marked area.
8. Care required of buyer toward property of seller.
9. Penalty for cutting non-designated timber and not cutting designated timber
10. Method of logging to be used.
11. Statement that buyer will use Best Management Practices.
12. Fire protection clause.
13. Method and terms of payment, including down payment
14. Duration of agreement (usually 12 to 24 months).
15. When logging will begin
16. Requirement that buyer notify seller of start and stop dates (7 to 10 days notice is often required).
17. Utilization standards: stump height, top diameter, etc.
18. Statement of who will suffer the loss if timber is stolen or destroyed.
19. Provision for or against assignment of contract to a third party (subcontractor).
20. Restriction of when logging can be done.
21. Landowner's right to inspect logging site and suspend operation if buyer is violating provisions of contract.
22. Detail steps buyer must take to be released from contract.
23. Penalties for non-performance, including setting up and escrow account.
24. Provision that frees seller from liability for injury, death or damage caused by the logger.
25. Statement that logger must show proof of having workman's compensation coverage and is not an employee of the seller.
26. Provision of a performance bond (usually 5 to 10% of sale price).
27. Provisions for logger's responsibility for repair of site: litter, seeding, clearing landings, repairing roads, etc.
28. Clause allowing for arbitration in case buyer and seller cannot agree on and issue.
29. Provision for or against renewal of contract.
30. Statement that any changes to the contract must be signed, dated and witnessed.
31. Signature of both parties.
32. Notarization of contract, preferably with two witnesses' signature.
33. Recording of contract at the county courthouse.

If your land is financed, the timber is probably covered by the mortgage and is part of the lender's collateral. You should work out an agreement with the lender prior to the sale. The lender could require that the proceeds be applied to the loan. The arrangement should be in writing.

You should consult your tax accountant (and/or consulting forester) concerning filing status and capital gains eligibility prior to planning the sale. If you sell timber frequently (every five years or so), you may be considered "in the timber business" by the IRS; as such, you must sell in accordance with IRS Code 631(a) and (b) to retain capital gains treatment, and must pay self-employment tax.